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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,332	11/20/2003	Kouji Amitani	03691/LH	2626
1933	7590	03/23/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			HO, ALLEN C	
767 THIRD AVENUE			ART UNIT	
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NEW YORK, NY 10017-2023			2882	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/719,332	Applicant(s) AMITANI ET AL.	
	Examiner Allen C. Ho	Art Unit 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>112003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - (1) Page 54, line 12, "9" should be replaced by --109--.
 - (2) Page 55, lines 15-16, ", as well as the supporting platform 103," should be deleted.
 - (3) Page 57, line 11, "narrower" should be replaced by --wider--.Appropriate correction is required.

Claim Objections

2. Claims 8, 11, 12, and 14-22 are objected to because of the following informalities:

Claims 8, 11, 12, and 14-22 are objected to because of the following informalities: These claims used the phrase "capable of". Language, such as "capable of", that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. MPEP § 2106. The applicants are advised to amend the claims so that the limitations are positively stated.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 12, 15, 16, and 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites "space opposite to the radiation source with respect to the subject platform is secured". It is unclear what structural limitation, if any, is set forth by this recitation.

Claim 15 recites "at least one of the plurality of supporting platforms is capable of lying and standing". The meaning of this recitation is unclear.

Claim 16 recites "at least one of the plurality of supporting platforms is capable of extending and shrinking". The meaning of this recitation is unclear.

Claims 18-22 recite "at least one of the plurality of supporting platforms is capable of rotating from a location where the at least one of the plurality of supporting platforms faces the radiation source toward a side of the radiation or a side opposite to the radiation source". The meaning of the recitation is unclear.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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6. Claims 1-3, 5, 6, and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Abel (U. S. Patent No. 2,680,199).

With regard to claims 1-3, Abel disclosed a radiation image radiographing apparatus comprising: a radiation source (13); a subject platform (10); and a plurality of support platforms (41, 42, 43), wherein a distance between one supporting platform and the radiation source is different from a distance between one of the other supporting platform and the radiation source.

Claims 5 and 6 recite intended use, since claim 1 does not claim a radiation image information detecting member. Accordingly, claims 5 and 6 are rejected with claim 1.

With regard to claims 11 and 12, Abel disclosed the apparatus of claim 1, where at least one of the plurality of supporting platforms is capable of being evacuated from a location where the at least one of the plurality of supporting platforms faces the radiation source (if a supporting platforms is capable of being assembled, it is capable of being evacuated/disassembled).

With regard to claim 13, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platforms detachably supports the radiation image information detecting member (a radiation image information detecting member could be detached from the supporting platform).

With regard to claim 14, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platform is capable of being attached to and being detached from a body of the radiation image radiographing apparatus (if a supporting platforms is capable of being attached, it is capable of being detached).

With regard to claim 15, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platforms is capable of lying (horizontal) and standing (when the supporting member is separated from the apparatus).

With regard to claim 16, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platforms is capable of extending (when it is assembled) and shrinking (when it is disassembled).

With regard to claim 17, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platforms is capable of moving along an irradiation direction of the radiation from the radiation source (column 5, lines 10-14).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel (U. S. Patent No. 2,680,199) as applied to claim 1 above, and further in view of Tsurumaki *et al.* (U. S. Patent No. 5,177,778).

With regard to claims 4, 9, and 10, Abel disclosed the apparatus of claim 1. However, Abel failed to disclose a controller having a switcher for switching a radiography mode, and wherein each of the plurality of platforms comprises a sensor.

Tsurumaki *et al.* disclosed a controller (50) having a switcher (52) and a plurality of sensors (51a-51g), each sensor detects a status of a component of the radiographing apparatus. A radiographing mode is implemented only when the switcher is in the neutral position.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the radiation image radiographing apparatus with a controller having a switcher and a sensor for each of the plurality of supporting platforms, since a person would be motivated to activate a radiographing mode only when the situation permits.

9. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel (U. S. Patent No. 2,680,199) as applied to claim 1 above, and further in view of Strawder (U. S. Patent No. 5,737,386).

With regard to claims 7 and 8, Abel disclosed the apparatus of claim 1. However, Abel failed to disclose a radiation operation panel comprising keys for selecting a radiographing mode.

Strawder disclosed a radiation operation panel (30, 40) comprising keys (10) for selecting a radiographing mode. Strawder taught this radiation operation panel accurately sets up exposure parameters to create a satisfactory x-ray image. Incorrect exposure parameters would lead to x-ray images of poor quality and repeat of the procedure (column 1, line 56 - column 2, line 16).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to supplement the radiation image radiographing apparatus with a radiation operation panel comprising keys for selecting a radiographing mode, since a person would be motivated to obtain an x-ray image of good quality by using correct exposure parameters.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-3, 5, 6, 11-18, and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 5, 6 of copending Application No. 10/776,410. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Application No. 10/776,410 claims a radiation image radiographing apparatus comprising: a radiation source; a subject platform (a beast table); and a plurality of support platforms (a first detector support rack, a second detector support rack, and a third detector support rack), wherein a distance between one supporting platform and the radiation source is different from a distance between one of the other supporting platform and the radiation source.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- (1) Wilkins *et al.* (U. S. Patent No. 6,226,353 B1) disclosed phase contrast imaging.
- (2) Strawder (U. S. Patent No. 6,072,855) disclosed a radiographing apparatus comprising a plurality of support platforms.
- (3) Wijkström (U. S. Patent No. 5,022,065) disclosed an x-ray film holder comprising a plurality of support platforms.
- (4) Romeas *et al.* (U. S. Patent No. 5,018,176) disclosed a mammography apparatus.
- (5) Komaki *et al.* (U. S. Patent No. 4,394,737) disclosed a radiographing apparatus comprising a plurality of support platforms.
- (6) Fried (U. S. Patent No. 4,251,732) disclosed a dental x-ray film holder comprising a plurality of support platforms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached at (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allen C. Ho
Primary Examiner
Art Unit 2882

20 March 2005